



Air Managers Committee/State Caucus

Regional Haze/WRAP Activity Update February, 2005

District Court rules on CEED petition for judicial review of § 309 Western Annex

– On February 18, a three-judge panel of the DC Circuit Court of Appeals ruled in favor of the Center for Energy and Economic Development on its petition for judicial review of EPA promulgation of the §309 Annex to the Regional Haze Rule. The court granted the petition, ruling that the EPA method of calculating the benefits of BART was similar to that which was thrown out in the previous *American Corn Growers, Et Al vs. EPA*, and that this similarity “fatally taints” EPA’s rule. The faulty BART calculation was used as the benchmark to show that the 5-state SO₂ milestone/backstop trading program in the Annex is “better than BART.” The court did affirm in the ruling that the Clean Air Act allows states to develop alternatives to BART instead of case-by-case BART to meet the BART requirement of the Regional Haze Rule.

See:

www.wrapair.org/forums/mtf/documents/group_reports/ANNEX/final/Annex_BART_Decision_05.02.18.pdf

The full scope of this decision is still unclear, and the effects are under review by EPA and states, along with next steps. The five §309 states and the City of Albuquerque have indicated in a letter to Jeff Holmstead their intent to work with EPA to resolve the deficiencies. See: <http://www.westgov.org/wga/testim/holmstead-ltr3-3-05.pdf>

EPA proposes new rules for PSD NO_x increments-offers alternatives

– EPA has proposed rulemaking to re-evaluate NO_x increments in Class I areas affected by new or modified major stationary sources. This action is pursuant to a 1990 court order to harmonize the statutory criteria of the Clean Air Act pertaining to pollutant-specific PSD requirements. PSD NO_x increments were first established in 1988. This proposal provides several options including:

- 1-Maintain the existing NO_x increments
- 2-EPA administered cap-and-trade program for specified source categories (CAIR)
- 3-State planning option incorporating elements to meet other regulatory requirements, with a demonstration that the plan would meet the CAA requirements for prevention of significant deterioration.

The preamble of the proposal also recognizes “Critical Load” approaches, which may be considered in the context of the state planning option, but critical load is not specifically listed as an option in this proposal.

A number of questions exist about implications for regional haze programs under the market trading and/or state planning options. The forum was undecided whether to recommend WRAP should comment on the EPA proposal. The forum is aware of WESTAR activity on PSD issues, and would recommend any action related to this proposal be coordinated with WESTAR. Additional clarity on the proposal is needed and will be obtained.

Stationary Sources Forum is evaluating status of NOx controls on existing Electrical Generating Units

– The contractor, Eastern Research Group (ERG) has been surveying available data bases to identify by state, all electrical generating units in the west, their NOx emissions, types of NOx emission reduction technologies applied, and the effectiveness. The project will also include a section on enhanced controls, and their applicability as retrofit systems to existing units. Some issues include capital and operating costs, reasonable applicability across different boiler types and fuel qualities. This is the initial information-gathering phase. The SSJF will later consider which of the available technologies to base emission strategies on, and which parameters to look at (i.e. % reduction, emission limits, defined technology.) ERG is also gathering information on oil and gas emissions, and will be working on 2018 stationary source emission projections.

Guidance for Categorizing Fire – The Fire Emissions Joint Forum adopted guidance on the WRAP Policy for Categorizing Fire Emissions. This guidance is meant to assist burners and regulators implement the annual tracking system requirement, and to report all fires as either “natural” or “anthropogenic” according to the Policy.

Implementation Work Group to meet in March – The IWG has scheduled its next meeting for March 8-9 to conduct training on use of the Attribution of Haze report, to work on the outline of the SIP/TIP template, and to review the draft proposed 2006 workplans from several of the WRAP forums. IWG members will also remain and participate in the WRAP Planning Team meeting on March 9-10.

WRAP Planning Team to consider 2006 WRAP workplans – The WRAP Planning Team, made up of the co-chairs of each of the WRAP forums will review each proposed workplan from the forums. The WRAP share of the EPA budget for RPO support has diminished, to about \$3m. The Administration’s proposed budget for FFY 2006 has reduced by half the RPO support. It effectively means little or no funding for contractor support of technical work beyond that needed to fulfill needs for the 2007 SIP/TIP submittals. The goal is to finish all technical work needed by mid-2006.